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09/434,645 11/05/99 LOEPER

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WM01/0925

EXAMINER

KYLE C

ART UNIT

PAPER NUMBER

2164
DATE MAILED:

09/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/434,645

Applicant(s)

LOEPER, DAVID B.

Examiner

Charles Kyle

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

The objection to Claims 1, 7, 8 and 13 set forth in the prior office action are withdrawn based on Applicant's amendments to the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al.

As to Claims 1, 7 and 13, Jones et al disclose the invention substantially as claimed, including system, method and storage medium for evaluating financial plans (Col. 5, line 50 to Col. 7, line 60) which includes:

Receiving from a user a predetermined initial value of an investment (Col. 18, lines 27-29) at least one predetermined contribution amount at a predetermined contribution time (Col. 5, line 52 to Col. 6, line 7) and at least one predetermined withdrawal amount at a predetermined withdrawal time subsequent to the predetermined contribution time (Col. 17, lines 45-55);

Calculating the change in a predetermined initial value of an investment based on changes in value over a first historical time period to obtain a changed investment value (Fig. 6; Col. 16, lines 12-24);

updating the changed investment value based on selected investment assumptions to obtain a further changed investment value (Col 20, lines 8-30);

calculating the change in the changed initial value of an investment to obtain a further changed investment value (Col. 18, lines 27-49);

repeating the calculations with respect to successive historical time periods (Col. 18, lines 27-29);

after at least one of the calculations, adjusting the investment based on at least one of a contribution amount and a withdrawal amount (Fig. 7; Col. 17, line 45 to Col. 18, line 48).

Jones et al do not specifically disclose the use of historical data from particular second, third and fourth historical time intervals, although they do disclose the specific use of historical data in calculation of investment value as noted above. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used additional and different historical data because this would have produced more accurate investment values in an iterative process of stepwise refined calculations. This need for such flexibility is clearly suggested in the disclosure of a dynamic approach to re-balancing to maximize returns at Col.18, lines 27-48. Failure to have made such

historically based adjustments would have produced a rigid and likely inaccurate process of investment valuation.

Concerning Claims 2, 8 and 14, Jones et al disclose the presentation of results at Col. 4, lines 24-34 and Col. 11, lines 7-10.

Regarding Claims 3, 9 and 15, Jones et al disclose multiple asset categories and distinct historical data at Fig. 4 and Col. 12, line 54 to Col. 13, line 41.

As to Claims 4, 10 and 16, Jones et al disclose comparison of results of calculation to a goal at Col. 12, lines 9-31.

Concerning Claims 5, 11 and 17, Jones et al disclose adjustment of results for tax effects at Col. 10, lines 18-53.

With respect to Claims 6, 12 and 18, Jones et al teach the entry of initial investment values and allocation to asset categories at Col. 5, line 50 to Col. Col. 7, line 10.

As to Claim 19, Jones et al disclose identification of time intervals at result presentation at Col. 1, lines 10-13.

Concerning Claim 20, Jones et al disclose having as a goal a specified sum after a number of years at Col. 12, lines 15-17.

Regarding Claim 21, Jones et al disclose changing an asset allocation after a selected number of time intervals and using a changed allocation in subsequent calculations at Col. 12, lines 24-28.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on Monday - Friday, 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

crk

September 21, 2001



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
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